

Introduced by Senator OrtizFebruary 24, 2006

An act to amend Section 1021.5 of the Code of Civil Procedure, relating to attorneys' fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1818, as introduced, Ortiz. Attorneys' fees.

Under existing law, a court may award attorneys' fees to a successful party against one or more opposing parties in any action that has resulted in the enforcement of an important right affecting the public interest and if a significant benefit has been conferred on the general public or a large class of persons and other conditions are satisfied. With respect to actions involving public entities, this provision applies to allowances against, but not in favor of, public entities.

This bill would provide that a public entity may recover attorneys' fees as the prevailing party upon motion to the court if it can show that a significant benefit has been conferred on, or an important principle has been established for the benefit of, the public.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1021.5 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1021.5. (a) Upon motion, a court may award ~~attorneys'~~
- 4 ~~attorneys'~~ fees to a successful party against one or more
- 5 opposing parties in any action ~~which~~ that has resulted in the

1 enforcement of an important right affecting the public interest if:

2 ~~(a) a all of the following are met:~~

3 (1) A significant benefit, whether pecuniary or nonpecuniary,
4 has been conferred on the general public or a large class of
5 persons, ~~(b) the~~.

6 (2) The necessity and financial burden of private enforcement,
7 or of enforcement by one public entity against another public
8 entity, are such as to make the award appropriate, ~~and (c) such~~.

9 (3) Those fees should not in the interest of justice be paid out
10 of the recovery, if any. ~~With~~

11 ~~(b) With respect to actions involving public entities, this~~
12 ~~section applies to allowances against, but not in favor of, public~~
13 ~~entities, and no claim shall be required to be filed therefor, unless~~
14 ~~one or more successful parties and one or more opposing parties~~
15 ~~are public entities, in which case no claim shall be required to be~~
16 ~~filed therefor under Part 3 (commencing with Section 900) of~~
17 ~~Division 3.6 of Title 1 of the Government Code. A public entity~~
18 ~~may recover attorney's fees as the prevailing party upon motion~~
19 ~~to the court if it can show that a significant benefit has been~~
20 ~~conferred on, or an important principle has been established for~~
21 ~~the benefit of, the public.~~

22 (c) Attorneys' fees awarded to a public entity pursuant to this
23 section shall not be increased or decreased by a multiplier based
24 upon extrinsic circumstances, as discussed in *Serrano v. Priest*,
25 20 Cal. 3d 25, 49.